IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

WP(C).No. 8198 of 2007(A)

PETITIONER:

D.LEELA, HOSPITAL ATTENDANT GRADE-II,
ON DAILY WAGES) PRIMARY HEALTH CENTRE KARODE,
RESIDING AT PARAYANVILAKATHU VEEDU, LEKSHAM VEEDU
COLONY, THOZHUKKAL, NEYYATTINKARA P.O.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS:

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1. THE PRINCIPAL SECRETARY, DEPARTMENT OF
HEALTH AND FAMILY WELFARE, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DISTRICT MEDICAL OFFICER,
OFFICE OF DISTRICT MEDICAL OFFICER,
THIRUVANANTHAPURAM.

3. THE MEDICAL OFFICER, PRIMARY HEALTH
CENTRE, KARODE, KAKKAVILA P.O.,
THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.8198 of 2007

Dated this the 27th day of March, 2007

JUDGMENT

The petitioner was appointed through Employment Exchange as Hospital Attendant Grade II as per Ext.P1 order issued by the second respondent. The appointment was for a period of one year. It is submitted that the petitioner was allowed to continue thereafter on daily wages. This writ petition has been filed for a direction to the respondents to allow the petitioner to continue as Hospital Attendant Grade II as a regular hand and to draw regular salary with effect from 9.2.2004.

2. The method of appointment to the post of Hospital Attendant Grade II is through Employment Exchange. Such appointments will be in accordance with the rules provided there is no qualified person in the feeder category to fill up the vacancies. This Court has held in **Vasanthi v State of Kerala** (2006(1) KLT 288), that Hospital Attendants Grade II appointed

through Employment Exchanges shall be treated as regular hands though appointed regularly. The appointing authorities shall collect necessary details relating to the availability of feeder category members for promotion. In the absence of such members, those appointed against regular vacancies through Employment Exchanges shall be allowed to continue as regular hands despite the time limit stipulated in the order of appointment.

3. The petitioner was initially appointed for a period of one year. She was allowed to draw emoluments in the pay scale attached to the post of Hospital Attendant grade II. Thereafter, she is working on daily wages. Counsel for the petitioner is right in submitting that the petitioner is entitled to continue in service with effect from 9.4.2004 also as a regular hand and to claim emoluments in the pay scale attached to the post of Hospital Attendant Grade II.

4. Government Pleader, on instructions, submits that the statement made by the petitioner that she was selected from among the candidates sponsored by the Employment Exchange

and was appointed by the second respondent who is the authority competent to appoint Hospital Attendant, is correct.

5. If that be so, the petitioner is entitled to succeed. The writ petition is allowed. There shall be an order directing the respondents to treat the petitioner as a regular Hospital Attendant Grade II. She shall be paid emoluments in the pay scale of Hospital Attendant Grade II with effect from 9.2.2004. This shall be done within a period of four months. The rights, the petitioner may enjoy, based on this judgment, will be subject to orders that may be passed by the apex Court in the Special Leave Petition pending against the judgment of the Division Bench referred to in **Vasanthi** v **State of Kerala** (2006(1)KLT 288).

K.K.DENESAN, JUDGE

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